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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/991,352 | 11/20/2001 | Roger A. Wilson | 20000514.ORI | 3354 |

23595 7590 07/17/2003
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|----------------|--------------|
| EXAMINER | |
| FOX, CHARLES A | |
| ART UNIT | PAPER NUMBER |

3652

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/991,352 | WILSON, ROGER A. | |
| | Examiner | Art Unit | |
| | Charles A. Fox | 3652 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 April 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 November 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6) Other: _____ .

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Loessner. In regards to claim 1 Loessner US 648.152 discloses a material distribution device comprising:

a hopper for carrying a load of material to be distributed;
a conveyor belt (d) having paddles (e) thereon for engaging and moving the material to be distributed, the conveyor belt is supported by a rigid unjointed framework (b,b') which is pivotally attached to said hopper and engages the material from the top of the material;
a drive mechanism attached to the conveyor belt for powering said conveyor so as to remove material from the hopper.

In regards to claim 2 Loessner also discloses:

the hopper is disposed on a trailer;
the drive mechanism includes a trailer wheel having a sprocket and the sprocket having a chain for transmitting power to said conveyor belt, such that the conveyor belt moves at a speed proportional to the speed of the trailer.

In regards to claim 3 Loessner further discloses a clutch attached to said sprocket for engaging the conveyor belt in order to drive the belt only at the desired times.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loessner as applied to claims 2 and 3 above, and further in view of Groeneveld et al. Loessner teaches the limitations of claims 2 and 3 as above, he does not teach a variable speed gear box for the conveyor. Groeneveld et al. teach a manure spreader (21) with a gear box (28) that can change the speed of the conveyor (24) of the spreader by using control rod (61) to place the drive pinion in contact with either a high speed gear (52) or a low speed gear (53) for driving the spreading device. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Loessner with a gearbox as taught by Groeneveld et al. in order to regulate the distribution of the material from the hopper independently of the speed of the trailer the hopper is riding on.

Claims 6-9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loessner as applied to claims 1-3 above, and further in view of Frank. Loessner teaches the limitations of claims 1-3 as above, he does not teach a separate motor to

drive said conveyor belt or a powered means for raising and lowering said belt. Frank US 3,602,404 teaches a manure spreader comprising:

a conveyor belt (30) for distribution manure from a hopper and said belt is driven by a motor (68) for driving said belt;

a drive mechanism (45) for raising and lowering said belt into and out of engagement with material to be distributed.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the belt movement means taught by Frank on the device taught by Loessner in order to allow the device to be discharged while stationary as well as selecting the desired pressure of the conveyor belt upon the material being distributed.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loessner in view of Groeneveld et al. as applied to claims 4 and 5 above, and further in view of Frank. Loessner and Groeneveld et al. teach the limitations of claims 4 and 5 as above, they do not teach a powered means for raising and lowering said belt. Frank teaches a manure spreader comprising:

a conveyor belt (30) for distribution manure from a hopper and said belt is driven by a motor (68) for driving said belt;

a drive mechanism (45) for raising and lowering said belt into and out of engagement with material to be distributed.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the belt movement means taught by Frank on the device taught by Loessner and Groeneveld et al. in order to allow the device to be discharged while

stationary as well as selecting the desired pressure of the conveyor belt upon the material while it is being distributed.

Response to Amendment

The amendments to the claims filed on April 29, 2003 have been entered into the record.

Response to Arguments

Applicant's arguments with respect to claims 1 and 7 have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Tucker 1926 and Strocker 1975.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3652

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-4294. The examiner can normally be reached between 7:00-5:00 Monday,Tuesday,Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

CAF
July 10, 2003

CAF 7-10-03



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600